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NEA, NEH, IMS BUDGETS

(in millions)	<u>Authorization</u>	<u>Administration Recommendation</u>	<u>Appropriation</u>
NATIONAL ENDOWMENT FOR THE ARTS			
FY 1981	\$175.0	\$167.325*	\$158.795
FY 1982	119.3	88.0	143.456
FY 1983	119.3	100.875	143.875
FY 1984	166.5	125.0	162.223
FY 1985	Such Sums	143.875	163.66
FY 1986	167.06	144.45	165.66**
			158.537***
FY 1987	170.20	144.9	165.081
FY 1988	177.01	145.2	167.731
FY 1989	Such Sums	167.731	
FY 1990	Such Sums		
NATIONAL ENDOWMENT FOR THE HUMANITIES			
FY 1981	\$170.0	\$152.241*	\$151.299
FY 1982	113.7	85.0	130.56
FY 1983	113.7	96.0	130.247
FY 1984	175.0	112.2	140.118
FY 1985	Such Sums	125.475	139.478
FY 1986	139.878	126.0	138.641**
			132.679***
FY 1987	145.07	126.44	138.49
FY 1988	150.87	126.89	140.435
FY 1989	Such Sums	140.435	
FY 1990	Such Sums		
INSTITUTE OF MUSEUM SERVICES			
FY 1981	\$ 25.0	\$ 12.9*	\$ 12.857
FY 1982	30.0	0.00	11.52
FY 1983	35.0	0.00	10.8
FY 1984	20.15	11.52	20.15
FY 1985	Such Sums	11.612	21.56
FY 1986	21.60	0.292	21.39**
			20.474***
FY 1987	22.46	0.33	21.25
FY 1988	23.36	19.25	21.944
FY 1989	Such Sums	21.944	
FY 1990	Such Sums		

* Recommended by President Carter

** Appropriation prior to Gramm-Rudman Hollings

*** Appropriation after Gramm-Rudman-Hollings 4.3% cut

TAX ISSUES

Legislative tax issues are increasingly consequential to nonprofit organizations, including arts and cultural groups, beginning with the Tax Reform Act of 1986 affecting charitable deductions, to the present Congressional debate on earned income in the nonprofit sector leading to questions about the very nature of tax-exempt status.

CHARITABLE CONTRIBUTIONS

Federal tax law reform in 1986 changed the way certain charitable contributions could be deducted. First, Congress repealed the deduction of charitable gifts which could be taken by nonitemizing taxpayers, though over half of the House of Representatives supported its continuation. The provision passed in 1981 as an extra incentive to give to charity and spread the base of support, reflecting the new Administration's wish to enhance the role of tax-exempt organizations. The change in 1986 came with the demand for additional revenue caused by cuts in individual taxes over six years.

Second, the 1986 tax law lowered the incentive for major contributors to make gifts of appreciated property by including the gifts as "preference items" subject to the alternative minimum tax, limiting the benefit of a full fair market value deduction. The decline in charitable giving overall as a result of these two measures plus the new lower tax rates has been estimated to amount to \$11 billion.

In 1987, during consideration of later tax legislation, Congress discussed -- but did not enact -- proposals to cut further the value of charitable deductions which would have cost another \$8 billion in lost funds to charities.

Cuts at deductions for charitable gifts undermine the very purpose of their existence -- to encourage the support of charities. With the responsibility for more services transferred from the government to nonprofit organizations accompanied by reduced financial support for those services, private giving needs incentives if it is to grow by the rate needed to make up for the federal government's spending reductions.

Recommendation: Reinstate nonitemizers' deduction and repeal inclusion of appreciated property gifts in the alternative minimum tax.

UNIFORM CAPITALIZATION

The 1986 Tax Reform Act 1986 ended traditional business deductions for artists and writers, substituting capitalization rules to require assigning expenses to a specific project and allow deductions only after receiving income from the project.

Besides imposing a complicated accounting system, the new rule would prevent artists from deducting all expenses in the year incurred, and expenses for unsold works of art cannot be claimed. Congress is being asked to amend the tax law to exempt artists from the capitalizations provision and allow the standard form of business deduction.

Recommendation: Support return of business deduction for artists.

TAXATION OF INVESTMENT/ENDOWMENT INCOME

In reviewing options for raising revenue toward reducing the federal budget deficit, Congress in 1986 considered imposing a 5 percent tax on the investment income of tax-exempt groups. Among nonprofits, foundations and charities were expected to lose \$1 billion by paying the excise tax.

A proposal to tax charitable investment income would come at a time when most cultural organizations are struggling to establish endowments for the first time, many with the help of government support. The proposed tax represented an attack on the foundation of tax-exempt status in federal law. It would reduce the funds that private, nonprofit organizations need to function and the harm would fall on the beneficiaries of tax-exempt groups as a result of a reduction in programs.

Recommendation: Oppose any tax on passive income for nonprofit groups.

UNRELATED BUSINESS INCOME TAX (UBIT)

The entrepreneurial, earned income activities which seemed to be encouraged by the Administration's policy directions in 1981 have now come under Congressional scrutiny. Nonprofit organizations are under attack from members of the small business community claiming unfair advantage from tax breaks, lower postal rates, and grant support for nonprofits that provide similar services.

Under current law, commercial or unrelated business income of a tax-exempt organization is taxed only when it derives from an activity "not substantially related" to the organization's tax-exempt purpose. Income from operations run primarily for the convenience of an organization's members is tax-exempt, as is income from a nonprofit group's investments and royalties.

Business owners argue that this special tax treatment allows nonprofits to lower their prices on otherwise commercial activities and compete at an unfair advantage. The House Ways and Means Subcommittee on Oversight has held hearings to review the types of commercial activities in which nonprofits engage, the extent to which there is competition with private business, and compliance by nonprofits with the unrelated business income tax provisions.

On March 31 the Subcommittee issued options it will consider for legislative action on UBIT.

The proposals would threaten with taxation a wide variety of revenue producing activities carried out by nonprofit tax-exempt groups including: certain gift shop sales, off-premise sales from catalog and mail or phone orders, royalties, most travel and tour services, net income from program advertising, income from low-cost items used in fund drives like T-shirts and tote bags, and mailing list exchanges or rentals.

The subcommittee, which plans to hold hearings soon on the proposals, has asked for public comments by April 15.

Recommendation: Oppose any limits on the ability of nonprofit institutions to engage in income-producing activities related to their tax-exempt function.

NONPROFIT POSTAL SUBSIDY

Historically, Congress has assisted private nonprofit organizations by subsidizing a portion of their mailing expenses. Legislation passed in 1952 and 1967 mandated increased postal rates but made exceptions for nonprofit mailers with lower, preferred rates. In 1970, with the passage of the Postal Reorganization Act, Congress established an appropriation -- the postal revenue forgone subsidy -- to compensate the Postal Service for revenues lost in providing reduced postage rates to nonprofit organizations.

In recent years nonprofit organizations have had to plead with Congress to continue postal subsidies for nonprofit mailers in the face of Administration attempts to eliminate the postal subsidy. In fact for fiscal 1986, the President vetoed the postal service appropriations bill, making specific reference to the subsidy for nonprofit mailers but Congress subsequently approved the funding. Removal of the subsidy could have a serious impact on the ability of nonprofit groups to raise funds and publicize events.

Fortunately, Congress has persisted in its support to maintain the special reduced rates, but in 1987 a House appropriations subcommittee voted to zero out the subsidy and proposed that the Postal Service cover the cost with revenue derived from other postal classes. By the time the bill had gotten to the full Appropriations Committee, the outcry from organizations representing nonprofit interests was enough to persuade the committee to put the money back in the bill.

Now, the Administration's budget for 1989 proposes eliminating the funding for the postal subsidy to nonprofit mailers. In the current year, Congress has appropriated \$517 million to support third-class nonprofit rates.

On April 3, 1988, all postal rates increased except for nonprofit mailers. The Postal Service Board of Governors rejected the Postal Rate Commission's recommendation that nonprofit third class rates climb to 9 cents a letter. Instead, the new rate for nonprofit mailings was set at 8.4 cents, down from the previous rate of 8.5 cents. That rate will remain in effect at least until September 30, 1988, depending thereafter how the appropriation fares for the postal revenue subsidy.

Under a system of shared subsidy, the nonprofit mail rate would be carried by increases set for other classes of mail. As expected, those mailers have filed appeals against the new nonprofit rates. For the time being, nonprofit groups can feel assured that efforts to make the case for special nonprofit mail rates have been fruitful.

Recommendation: Full funding at \$440 million to maintain basic rate at 8.4 cents.

VOLUNTEER PROTECTION

Nonprofit organizations are finding it increasingly difficult to obtain adequate liability insurance to cover volunteers on governing boards and in direct service activities. As volunteers become more personally exposed to liability as defendants in cases brought against their organization, insurance coverage is either not available or at such a huge cost that the outlay for premiums is unaffordable. At stake is the ability of nonprofit programs to continue offering services to the community and to attract volunteers to participate in their programs.

In a recent survey of leaders in the volunteer arena, 80 percent of the respondents believe the directors' and officers' liability problem is damaging the quality of governance in national volunteer organizations. Of those nonprofits in the survey, museums directors at 45 percent and orchestra executives at 54 made up the low end of the scale of those insured. A third of the sample said that premiums had risen more than 300 percent at the last renewal of coverage.

When questioning state officials about liability protection for volunteers, only eleven states were identified as having current or proposed plans to bring relief to directors and officers. None of the state commissioners rated these initiatives as politically feasible.

In response to the situation, legislation has been introduced in Congress to encourage the enactment of state legislation to make volunteers immune from personal civil liability. H.R. 911, the Volunteer Protection Act of 1987 authored by Rep. John Edward Porter (R-IL), and the companion Senate bill, S. 929, sponsored by Sen. John Melcher (D-MT), would encourage state government to provide limited immunity from personal suits for unpaid volunteers with nonprofit groups. Organizations would remain legally liable, as would the volunteer for unauthorized or willful behavior.

The legislation also seeks an incentive to move states to enact laws limiting the liability of volunteers in nonprofit organizations. Any state which fails to pass legislation protecting volunteers would forfeit 1 percent of its share of the federal social services block grant award which each state receives.

H.R. 911 has been jointly referred to the House Ways and Means Committee and the House Judiciary Committee. A hearing on S. 929 has been scheduled for May 27 by the Senate Judiciary Subcommittee on Courts and Administrative Practice.

Recommendation: Urge Congressional action on volunteer protection and that both House and Senate hold hearings this year.